

## HOUSE BILL NO. 279

INTRODUCED BY P. WAGMAN

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING THE PROHIBITION ON DUAL COMPENSATION FOR PUBLIC OFFICERS, LEGISLATORS, AND PUBLIC EMPLOYEES BY REMOVING EXCEPTIONS FOR REIMBURSEMENT AND REDUCTION IN SALARY; AMENDING SECTION 2-2-104, MCA; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 2-2-104, MCA, is amended to read:

**"2-2-104. Rules of conduct for public officers, legislators, and public employees.** (1) Proof of commission of any act enumerated in this section is proof that the actor has breached the actor's public duty. A public officer, legislator, or public employee may not:

(a) disclose or use confidential information acquired in the course of official duties in order to further substantially the individual's personal economic interests; or

(b) accept a gift of substantial value or a substantial economic benefit tantamount to a gift:

(i) that would tend improperly to influence a reasonable person in the person's position to depart from the faithful and impartial discharge of the person's public duties; or

(ii) that the person knows or that a reasonable person in that position should know under the circumstances is primarily for the purpose of rewarding the person for official action taken.

(2) An economic benefit tantamount to a gift includes without limitation a loan at a rate of interest substantially lower than the commercial rate then currently prevalent for similar loans and compensation received for private services rendered at a rate substantially exceeding the fair market value of the services. Campaign contributions reported as required by statute are not gifts or economic benefits tantamount to gifts.

(3) (a) Except as provided in subsection (3)(b), a public officer, legislator, or public employee may not receive salaries from two separate public employment positions that overlap for the hours being compensated; unless:

~~(i) the public officer, legislator, or public employee reimburses the public entity from which the employee is absent for the salary paid for performing the function from which the officer, legislator, or employee is absent; or~~

1 ~~—— (ii) the public officer's, legislator's, or public employee's salary from one employer is reduced by the amount~~  
2 ~~of salary received from the other public employer in order to avoid duplicate compensation for the overlapping hours.~~

3 (b) Subsection (3)(a) does not prohibit:

4 (i) a public officer, legislator, or public employee from receiving income from the use of accrued leave or  
5 compensatory time during the period of overlapping employment; or

6 (ii) a public school teacher from receiving payment from a college or university for the supervision of student  
7 teachers who are enrolled in a teacher education program at the college or university if the supervision is performed  
8 concurrently with the school teacher's duties for a public school district.

9 (c) In order to determine compliance with this subsection (3), a public officer, legislator, or public employee  
10 subject to this subsection (3) shall disclose the amounts received from the two separate public employment  
11 positions to the commissioner of political practices."  
12

13 NEW SECTION. Section 2. Effective date. [This act] is effective July 1, 2005.

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